



## **MINUTES**

City Council Regular Meeting  
September 7, 2021 - 7:00 PM

### CALL TO ORDER

Mayor Rudy called the meeting to order at 7:06 p.m.

### PLEDGE

### ROLL CALL

Mayor:	Brian Rudy
Mayor Pro-Tem:	Mark Clark
Council:	Laura Speer
	Alicia Johnson
	Fred Neal
	Amanda Castle
	Tammy Mortenson

### PROCLAMATION

#### 1. Margaret Michele Jones Day

Mayor Rudy read the proclamation aloud and proclaims September 22, 2021 as Margaret Michele Jones Day in the City of Evans and encouraged citizens to support at least one local business on this day to honor Michele's many contributions to our business community. He then presented the Proclamation to the Evans Chamber of Commerce.

### AUDIENCE PARTICIPATION

Michelle Nicholas, Union Colony Elementary School, addressed Council concerning registered sex offenders within a close proximity to the school.

Sherrie Peif, 3031 Quail Street, Evans, addressed Council regarding the Greeley Charter Amendments ballot measures concerning water.

### APPROVAL OF AGENDA

Julie Kamka, City Clerk, amended the Agenda to defer Executive Session until after the Evans Redevelopment Agency meeting.

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the agenda as amended. The motion passed with all voting in favor thereof.

## CONSENT AGENDA

2. Approval of the August 17, 2021 City Council Meeting Minutes

Mayor Pro-Tem Clark made the motion, seconded by Council Member Johnson to approve the consent agenda as presented. The motion passed with all voting in favor thereof.

## OLD BUSINESS

3. Consideration of Ordinance Number 750-21, An Ordinance Amending Chapter 3.08 of the Evans Municipal Code to Add Requirements for Obtaining and Maintaining a Public Accommodations Tax License – 2nd Reading

Mr. Becklenberg reviewed the item as detailed in the agenda packet. On August 17, 2021, City Council considered and approved Ordinance Number 750-21 to amend Chapter 3.08 of the Evans Municipal Code for the purpose of reducing excessive criminal activity and calls for service to the Evans Police Department from hotels and motels in the City. Hotel licensees attended the August 17, 2021, regular meeting and provided comments, through legal counsel, expressing general approval of the purpose and provisions of Ordinance 750-21. After receiving public comments, City Council voted to approve Ordinance 750-21 with an amendment that deletes the requirement that licensees immediately retain a private security company. In place of the immediate requirement for licensees to retain a private security company, the amended ordinance conditions the requirement for private security upon a finding by the Police Chief that a licensee's call for service (CFS) ratio exceeds 2.25 during any consecutive one hundred twenty (120) day period, in which case, the licensee must retain such private security company, on terms approved by the Police Chief, for at least one year.

Council Member Castle made the motion, seconded by Council Member Neal to adopt Ordinance Number 750-21 as amended to Amend Chapter 3.08 of the Evans Municipal Code to Add Requirements for Obtaining and Maintaining a Public Accommodations Tax License. The motion passed with all voting in favor thereof.

4. Public Hearing: Consideration of a New Hotel & Restaurant Liquor License for La Playa Sport Bar and Grill LLC at 3520 11th Ave., Evans

Mayor Rudy opened the public hearing at 7:27 p.m.

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Julie Kamka, City Clerk.

Julie Kamka provided an overview of the application for a Hotel & Restaurant Liquor License. Oscar Feliciano Diaz Mejia and Julio Cesar Blanco Holguin, members of La Playa Sport Bar and Grill LLC, submitted an application on July 14, 2021 for consideration of a Hotel & Restaurant Liquor License to sell alcohol at retail for on-premises consumption at 3520 11th Avenue. The findings detailed in the staff report were read into the record.



Mr. Holguin, through an interpreter, explained that he advised staff during a pre-application meeting that he had worked as security for El Tropicana previously and that they will provide a sound barrier around the building. He had worked at El Tropicana for six months, while he was working for another company. He started his own security guard business and applied for the security license through the City. He saw an opportunity to start his own business. He has 18 years of experience working at bars and nightclubs and thought this would be a great opportunity. He has worked at hotels as security as well as at the Squeeze Box. They are looking to start this new business and get everything that is required and try to do things better than before. With the experience from the past, they want to do things better.

Mr. Mejia, through an interpreter, explained that he has lived in Colorado since 1999. He is a trucker now that carries feed to cows. He also has a painting business. The opportunity came upon him to open a restaurant and bar. They understand it is a hard time to open a restaurant right now but believes the harder they try, the better they will do. They want to work with the City and will do everything that the City requests. They have turned in everything that the City has asked for. They are willing to answer any questions that the Council may have.

Mayor Pro-Tem Clark asked staff about the petition signatures that were returned. Julie Kamka responded that of 141 signatures that were returned, 6 addresses were determined not to be located within the one-mile radius, which is considered the neighborhood boundary. The second page of the petition attachment is the page that appears to be in the same handwriting, which consists of 17 printed names.

Council Member Castle asked staff if there are a minimum number of signatures that are required to be submitted. Julie Kamka responded that there is no minimum number of signatures required.

Mayor Pro-Tem Clark asked where in the packet item he could find where Mr. Holguin did not disclose his previous employment with El Tropicana. Julie Kamka advised it was not listed on the Individual History Record. Mayor Pro-Tem Clark asked the applicants what they would do differently to ensure that there are no loud noise complaints, underage drinking occurring on the premises or the need for Police to visit the establishment. Mr. Holguin responded that previously he was head of security but now he will be the owner and he will make the rules. He has over 18 years of experience and considers himself an honest person. He will hire people of age and will not allow underage drinking. He purchased a decibel-reading device but was told that the noise is enforced by any complaints received. They will also implement a shuttle service to ensure patrons do not drink and drive to avoid accidents and problems with the City. Implementing the rules will be one of the most important things to them. Mayor Pro-Tem Clark asked if the applicants would follow all the rules as it pertains to securing building permits to construct any structures on the premises. Mr. Holguin responded that they do not want to go against the law. Mayor Pro-Tem Clark asked Mr. Holguin about not disclosing his prior criminal history on the application. Mr. Holguin responded that after 13 years, since 2008, a judge in Weld County closed the case. His lawyer told him that the case was no longer pending. It still shows on his record, but it has been closed. The lawyer that represented him during the case advised him to plead guilty without making him aware that a guilty plea could jeopardize his immigration status. In 2015, he was stopped by police for driving under the speed limit and was detained for three months. He tried re-opening his case to resolve the issue. Mayor Pro-Tem Clark asked Mr. Holguin if he intentionally did not disclose that conviction on the application or if it was left off in error. Mr. Holguin responded that it was an error on his part.

Council Member Speer asked the applicants if there are any family or financial ties to the prior establishment owners. Mr. Holguin responded that he only worked for the prior owners.

Mayor Rudy questioned the petition page with the similar handwriting. Mr. Holguin responded that they hired someone to help them get the signatures. There was a family gathering and one family member signed in the name of everyone attending. They did not want to alter anything on the petition, so they turned it in the way it was.

Mayor Rudy asked if there was anyone in the audience wishing to speak in favor of the application for a liquor license.

Elias Ramirez, son-in-law to Mr. Holguin, stated that Mr. Holguin has some language barriers, and he wants to speak in support of the application. Mr. Holguin means well when it comes to opening a business. He is very protective when it comes to alcohol and minors. Mr. Holguin is trying to bring more business to Evans and is trying to be a better person. He believes that Mr. Holguin will be great and he really means well. He asked Council to give the applicants an opportunity to prove themselves and show that they are capable of running this establishment.

Fernanda Leon, daughter of Mr. Holguin, explained that she assisted her father in filling out the application and they believed that his criminal history was behind him. They have been in the United States for 20 years and this is a good opportunity not only for him, but as a family. She has worked with him in security and she can attest that he wants to do good. Her and her sister assisted him with getting all the licenses he needs for the security business. His family is here to help and support him anyway they can.

Mayor Rudy asked if there was anyone in the audience wishing to speak in opposition of the application for a liquor license. There were none.

Council Member Speer asked staff if there are any requirements of the applicants to take certain classes regarding liquor service or owning a liquor establishment. Julie Kamka responded that the State Liquor Code requires TIPS training for all owners and servers of liquor licensed establishments. Council Member Speer asked if that is required prior to issuance of a license. Julie Kamka responded that it should be completed prior to issuance.

Mayor Rudy asked the applicants if they have had that training yet. Mr. Holguin stated that they have not yet had the training. If they get approved the owners and all employees will take the class. Employees 18 years old would not be allowed to sell or serve. All bartenders and servers will be required to take that class in order to serve.

Mayor Rudy closed the public hearing at 8:04 p.m.

Mayor Pro-Tem Clark believes that there were some miscommunications while the application was being filled out by the applicants. He feels that the applicants are willing to make the establishment successful and they are willing to go beyond what the previous owners had done, and they want to contribute to the neighborhood. He is willing to give them the benefit of the doubt and approve the license.

Council Member Johnson agrees with Mayor Pro-Tem Clark and believes that there is a language barrier, which makes it difficult to translate from English to Spanish. Legal jargon is difficult to



understand alone much less trying to translate it. Mr. Holguin was able to answer the questions and explain the circumstances. She is in favor of giving the applicants the opportunity.

Council Member Mortenson is not opposed to the opportunity but would feel better if the TIPS training was already completed. She wants to see people do well in the community, but she is hesitant after all the issues with the previous business. Mayor Rudy advised that TIPS training can be a condition of issuance of the license.

Council Member Castle agrees with Mayor Pro-Tem Clark. At first, she was questionable but believes that applicant did a good job proving himself and his intent. She believes the opportunity for him, his family and the community are fantastic. Her only condition would be the TIPS training.

Council Member Neal has several concerns. His first is the NSF check. He has never had an NSF check in his lifetime. The non-reporting of the criminal history also supports his concerns.

Council Member Speer has the same concerns as Council Member Neal with the insufficient check and the background results. Mr. Holguin worked at the previous business and should be well aware of the concerns that the City has. She is undecided. She appreciates the hard work the applicants have put in by trying to make a better life for themselves and their families. Her hesitation is that she does not want it to be the same experience as the last establishment. She wants people to succeed. She is still undecided.

Mayor Rudy is in favor of the application. The applicants proved to him that they will be different, and they are aware of what can happen when a business is not run well. City Council does not want to close down businesses but will if needed. That's why he believes the applicants will run the business properly. As far as the NSF check, it happens. He trusts that the applicants are being honest, and he will vote in favor of the license with the condition of the TIPS training being completed prior to issuance of the license.

Council Member Castle made the motion, seconded by Council Member Johnson for the approval of the Hotel & Restaurant Liquor License for La Playa Sport Bar and Grill LLC, located at 3520 11th Avenue subject to completion of the TIPS class. The motion passed 5-2 with Council Members Neal and Mortenson voting against.

## NEW BUSINESS

### 5. Consideration of Award of Bid for 2021 Wastewater Treatment Plant Lagoon Biosolids Removal and Disposal

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Randy Ready, Assistant City Manager, and Jacob Reyna, Assistant Wastewater Superintendent.

Randy Ready provided an overview of the proposed contract. When the City's new wastewater treatment Plant (WWTP) was constructed and began operation in the spring of 2018, staff was aware that there would be an ongoing need to dispose of the digested sludge treatment byproduct from the storage lagoons. The unknown variable was how often this sludge removal process would be required. The rate of material generation is dependent on both influent waste stream volume and profile characteristics. Design consultants and plant engineers anticipated

that it could be sometime between one and three years before the first dewatering and sludge removal process would need to take place. New WWTP operations experience over the past three years since the plant started operating has shown that both influent waste stream volume and solids composition have been on the high side of projections, and it has become clear that sludge removal and off-site disposal will be necessary every year. BioVelocity proposes to use an electric dredge to remove sludge from the bottom of the lagoons without disturbing the liner and then use a centrifuge for dewatering to produce dry cake solids that will be conveyed into trucks for disposal, rather than hauling liquid sludge. \$300,000 was approved by council in the 2021 Wastewater Fund Budget for lagoon biosolids removal and disposal. This is a not-to-exceed contract at fixed unit costs for mobilization and biosolids removal per dry ton. The total expenditure under the contract will be based on the amount of removal and hauling work that is necessary to be done this year.

Council Member Neal asked if this is a relatively new process for removal of biosolids. Randy Ready stated that it is new to the City of Evans but is an acceptable form of removal. Jacob Reyna added that several surrounding municipalities have their own centrifuge and dry out their solids before removal. Council Member Neal asked staff if the City should look at securing its own centrifuge. Randy Ready responded that system is very expensive and requires quite a bit of maintenance.

Council Member Castle asked staff if they have an estimate of the dry tons to be removed. Randy Ready responded that it has been approximately 300 dry tons the last two years but added that it could be different depending on what is coming into the plant.

Council Member Mortenson made the motion, seconded by Council Member Johnson to award the 2021 Wastewater Treatment Plant Lagoon Biosolids Removal and Disposal Project Contract to BioVelocity, LLC, and to authorize the Mayor's signature on a contract in a not to exceed amount of \$300,000. The motion passed with all voting in favor thereof.

6. Consideration of Resolution Number 21-2021 to Approve a Memorandum of Understanding with the Sonoran Institute for Technical Assistance in Development of Water Conservation Program Metrics

Mr. Becklenberg reviewed the item as detailed in the agenda packet. He then turned the meeting over to Justine Schoenbacher, Water Conservation Coordinator.

Justine Schoenbacher provided an overview of the Resolution and Memorandum of Understanding (MOU). The Sonoran Institute is an organization that assists communities in conservation and natural resource management. The Growing Water Smart Metrics Pilot Program offers technical assistance to communities through a competitive selection process. Up to 70 hours of technical assistance and four facilitated stakeholder workshops are provided to selected communities. Two Colorado communities were selected for this inaugural program. Fort Collins will begin its metrics program this fall, and Evans will begin in early 2022. The Sonoran Institute has contracted with Brendle Group to be the service provider for the program. Brendle Group is a sustainability focused engineering and consulting firm based in Fort Collins. The Evans program will establish recommended benchmarks for metrics that should be/could be measured in the future; identify metrics to be immediately measured; identify a process to collect, interpret, analyze, and communicate data to City staff and officials, as well as the public;



refine and continuously update the Master Plan Water Dashboard; and continuously improve the City's future water conservation and efficiency program goals.

Mayor Pro-Tem Clark congratulated staff on securing the grant and being one of two communities nationwide that was awarded the grant. Anything the City can do to conserve water is great news and he is in favor it.

Council Member Johnson echoes Mayor Pro-Tem Clark's comments and believes that the City has come a long way in water conservation efforts. The City is able to provide its residents with assistance. She likes what she has seen and appreciates the grants which provide for the community.

Council Member Castle made the motion, seconded by Council Member Johnson to approve Resolution Number 21-2021 and the Memorandum of Understanding (MOU) with Sonoran Institute and Brendle Group and authorize the City Manager to sign the MOU. The motion passed with all voting in favor thereof.

## REPORTS

### 7. City Manager

Mr. Becklenberg provided an update on the sound equipment upgrade in the Council Chambers, reminded Council about the upcoming CML Conference, provided an update on the ballot measure, and introduced Kathleen Hix, the Interim Human Resources Director.

### 8. City Attorney

Scott Krob, City Attorney, did not have a report.

## AUDIENCE PARTICIPATION (general comments)

Mary Achziger, Evans Fire Protection District Board President, addressed Council concerning the Fire District Intergovernmental Agreement.

Sherrie Peif addressed Council concerning the article written about the Fire District Intergovernmental Agreement.

Mayor Rudy recessed the meeting at 8:45 p.m. to move into the Evans Redevelopment Agency meeting.

Mayor Rudy resumed the meeting at 8:59 p.m.

## EXECUTIVE SESSION

9. To receive advice from the City Attorney on specific legal questions related to enforcement of the City's business license and other related City code provisions, pursuant to C.R.S. Section 24-6-402(4)(b)

10. To receive legal advice on specific questions related to an intergovernmental agreement with the Evans Fire Protection District and to give direction to negotiators in connection with that agreement, pursuant to C.R.S. Section 24-6-402(4)(b) and (e)

Mayor Pro-Tem Clark made the motion, seconded by Council Member Castle to move into Executive Session at 9:00 p.m. to receive advice from the City Attorney on specific legal questions related to enforcement of the City's business license and other related City code provisions and to receive legal advice on specific questions related to an intergovernmental agreement with the Evans Fire Protection District and to give direction to negotiators in connection with that agreement, pursuant to C.R.S. Section 24-6-402(4)(b) and (e). The motion passed with all voting in favor thereof.

The meeting reconvened at 10:22 p.m.

Scott Krob noted for the record that the executive session that Council concluded was within the scope of the statute and that he was present for the duration of the discussion, so the discussion is subject to the attorney client privilege.

#### ADJOURNMENT

The meeting was adjourned at 10:22 p.m.

  
City Clerk



#### **CITY OF EVANS – MISSION STATEMENT**

**“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”**

It is the policy of the City of Evans that all programs and activities shall be accessible to, and usable by, persons with disabilities. Persons needing assistance shall contact the Safety & Risk Management Manager at the City of Evans. Please provide three to five business day's advance notice so we can adequately meet your needs.